

CA26N SM

November 1976

-76H53

Government
Publications

How to Incorporate Your Day Nursery



Ministry of
Community and
Social Services

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Introduction

Day nurseries, both charitable and non-charitable, are operated by private persons, municipalities, Indian Bands and corporations. In many cases a group of parents form a non-profit, non-incorporated association to operate a day nursery. Such an association may consider becoming incorporated.

Why Become Incorporated?

1. A corporation carries on the group's initial aims after death or retirement from the executive or membership.
2. Any assets the association helped accumulate for the group may only be used for the aims of the group or a similar public-spirited organization.
3. Unlike a business venture the corporation may be one without gain; that is no one member or group of members stand to profit personally. In turn, the individual members are exempt from personal liability for the debts and obligations of the corporation.
4. The corporation as a body in law informs everyone that it is:
 - (a) committed to a long-term goal,
 - (b) stable and enduring over time, and, hence
 - (c) reliable.
5. Only incorporated groups may receive funding from the Ministry of Community and Social Services for capital expenditures, and in some cases, operating expenses for a centre. Under *The Day Nurseries Act* corporations must be approved by the Minister for funding. This is a separate and additional procedure after incorporation, requiring a special application.
6. The Ministry of Community and Social Services does not require that a nursery school or day care centre become incorporated in order to be licensed. However, non-incorporated groups will need to apply for a new licence each year unless the person whose name appears on the licence continues to be the applicant for renewal. A new licence would require a \$10.00 fee instead of a \$5.00 renewal fee, and would also mean new annual approval from the local fire, health and zoning authorities.

There are three different ways of becoming incorporated.

- i) Under *The Business Corporation Act*, commercial nurseries with share capital may become incorporated.
- ii) Under *The Co-operative Corporations Act*, nurseries financed by share or non-share capital may become incorporated. They must be co-operative and they must use "co-operative" in the name of the nursery.
- iii) Under *The Corporations Act*, Part III, a non-profit day nursery funded by non-share capital may become incorporated. It may not use "co-operative" or "co-op" in its name.

Non-Profit Groups

Non-profit groups have two choices when they decide to incorporate.

1. If your group incorporates under *The Co-operative Corporations Act* (non-share capital), four requirements must be met:
 - i) An annual return must be filed. Forms are forwarded from the Companies Division of the Ministry of Consumer and Commercial Relations, at the anniversary date of incorporation. For this reason it is essential that the nursery have a consistent mailing address.
 - ii) The word "co-operative" must be used as part of the corporate name.
 - iii) A certified auditing of the books must be done annually.
 - iv) The annual financial statement must be filed with the Companies Division, Ministry of Consumer and Commercial Relations.

The initial filing fee is \$50.00. The annual fee is \$10.00

Since most co-operative nurseries are non-profit, it is wise for them to have a "no gains" clause. This is required under *The Day Nurseries Act* for funding purposes.

2. If your group incorporates under *The Corporations Act*, Part III (non-profit with non-share capital), the word "co-operative" may not be used in the name and the following three requirements must be met:

- i) An annual return must be filed. Forms are forwarded from the Companies Division of the Ministry of Consumer and Commercial Relations at the anniversary date of incorporation. For this reason it is essential that the nursery have a consistent mailing address.
- ii) A certified auditing of the books must be done annually.
- iii) There must be a "no gains" clause in the constitution.

An annual financial statement need not be filed with the Companies Division.

The initial filing fee is \$20.00. No annual fee is required.

Information Available

Copies of the Acts referred to may be purchased from:

The Ontario Government Bookstore
880 Bay Street, Toronto
Phone: (416) 965-2054

Day Nurseries Act	\$1.50
Corporations Act	\$3.00
Co-operative Corporations Act	\$6.00

Mail orders should be addressed to:

Publications Service
Ministry of Government Services
3B-7 Macdonald Block, Queen's Park
Toronto, Ontario M7A 1N8

A cheque or money order payable to The Treasurer of Ontario must accompany your order.

Once the decision has been made by your group to become incorporated, you may prefer to contact a lawyer. If you wish to pursue it yourselves, the information on the following pages may be helpful.

Choosing a Name

A very important part of forming a corporation is deciding on a name. The availability of the proposed name should be ascertained in advance of any further steps in the incorporation process. This can be done by submitting the proposed name (together with two or more alternative names) for approval to:

Corporation and Names Section
Companies Services Branch
Ministry of Consumer & Commercial Relations
555 Yonge Street, 3rd Floor
Toronto, Ontario M7A 2H6
Phone: (416) 965-2031

Application Papers

If you have decided to become incorporated:

- (a) as a co-operative,
request forms for Articles of Incorporation from:

Co-operative Services Branch
Companies Division
Ministry of Consumer & Commercial Relations
555 Yonge Street, 2nd Floor
Toronto, Ontario M7A 2H6

For further information: Mr. J.M. Best
(416) 965-6834

- (b) as a non-share corporation,
request Application forms for Incorporation without
shared capital from:

Companies Services Branch
Companies Division
Ministry of Consumer & Commercial Relations
555 Yonge Street, 2nd Floor
Toronto, Ontario M7A 2H6

For further information: Mr. H.H. Ozolins
(416) 965-5510

Application for Incorporation

In order to complete the Application for Incorporation, agree on those willing to serve as charter applicants and list full names, addresses and occupations. The size of the board of directors should be agreed upon prior to incorporation. The minimum number of incorporators/directors required is:

- under *The Business Corporation Act* - 1;
- under *The Corporations Act* - 3; and,
- under *The Co-operative Corporations Act* - 5.

However, on the basis of past experiences regarding non-profit groups it is recommended that seven, nine or eleven directors be appointed.

Draft the objectives for which your group wishes to become incorporated. These should cover all your intentions for establishing and operating the group, whether or not you proceed to do all the objectives mentioned; the power to accept donations, gifts, legacies and bequests, and a "no gains" clause providing for the charitable distribution of assets should the corporation cease to exist.

The preliminary board of directors should make the following decisions:

- o the design of a corporate seal;
- o the date of the financial year end and the appointment of auditors;
- o quorum for meetings;
- o number of officers, their duties, manner of appointments and removal; and,
- o any additional matters generally included in the by-laws of the corporation, and any additional by-laws to be passed.

After incorporation, the organization (day nursery) should:

Adopt the by-laws in a general meeting of members; and

Purchase a corporate seal (simple design, from a supplier of legal stationery).

To become eligible to receive donations as a Canadian Charitable Organization, write to:

Deputy Minister of National Revenue (Taxation)
875 Heron Road
Ottawa, Ontario K1A 0L8

Attention: Charitable and Non-profit
Organization Section

When a registered number is received, obtain a rubber stamp and a receipt book.

Complete an annual return within two months after the anniversary date of incorporation. Mail to:

Annual Returns and Cancellations Section
Companies Division
Ministry of Consumer & Commercial Relations
555 Yonge Street, 3rd Floor
Toronto, Ontario M7A 2H6

If you are a licensed day nursery or propose to operate a licensed day nursery, on receipt of the letters patent or certificate of incorporation, send two copies of the document to the attention of the Early Childhood Consultant, in your District Office of the Ministry of Community and Social Services.

Note: Draft by-laws for a co-operative without share capital are available through your District Office of the Ministry of Community and Social Services.

Northern Ontario

Keewatin-Kenora

104 Government Rd., Box 429
Keewatin, Ont. P0X 1C0
(807) 547-2801

Kirkland Lake

8 Hudson Bay Ave., Box 398
Kirkland Lake, Ont. P2N 3J1
(705) 567-3391

North Bay

222 McIntyre St. W., Suite 408
North Bay, Ont. P1B 2Y8
(705) 474-3540

Sault Ste. Marie

123 March St., #304, Box 68
Sault Ste. Marie, Ont. P6A 2Z5
(705) 256-5666

Sudbury

127 Cedar St., 3rd Floor
Sudbury, Ont. P3E 4S6
(705) 674-3151 ext. 271

Thunder Bay

1200 Walsh Street W.
Thunder Bay, Ont. P7E 4X4
(807) 475-1515

Southern Ontario

Barrie

Civic Sq. Tower, 5th Floor
70 Collier St., Box 910
Barrie, Ont. L4M 4Z2
(705) 737-1311

Belleville

14 Bridge St. W., Box 816
Belleville, Ont. K8N 5B5
(613) 962-9562

Cornwall

132 Second St. E., Box 1358
Cornwall, Ont. K6H 5V4
(613) 932-3381

Hamilton

100 Main St. E., 39-40th Floors
Hamilton, Ont. L8N 3W6
(416) 526-9300

Kingston

1055 Princess St., Suite 102
Kingston, Ont. K7L 4Y3
(613) 544-6206

Lindsay

322 Kent St. W.
Lindsay, Ont. K9V 4S9
(705) 324-6128

London

495 Richmond St.
London, Ont. N6A 5A9
(519) 438-5111

Metro Toronto

110 Eglinton Ave. W., 5th Floor
Toronto, Ont. M4R 2C9
(416) 487-4392

Ottawa

2197 E. Riverside Dr., Room #201
Ottawa, Ont. K1H 7X3
(613) 737-5520

St. Catharines

110 James St., Box 176
St. Catharines, Ont. L2R 6S4
(416) 688-3022

Waterloo

75 King St. S., Suite 501
Waterloo, Ont. N2J 1P2
(519) 886-4700

Windsor

2090 Wyandotte St. E., 3rd Floor
Windsor, Ont. N8Y 1E6
(519) 254-1651

York-Peel

20 Nelson St. W., Suite 201
Brampton, Ont. L6X 2M5
(416) 453-3181



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